

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN MICHAEL BALE,

Plaintiff,

v.

MICHELLE TAYLOR,

Defendant.

CASE NO. C12-5803 BHS-JRC

ORDER

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable J. Richard Creatura, United States Magistrate Judge. Dkt. 6. The Court having considered the R&R and the remaining record, and no objections having been filed, does hereby find and order as follows:

- (1) The Court adopts the Report and Recommendation;
- (2) Plaintiff may not sue his criminal defense attorney in a civil rights action because the attorney does not act under color of state law. *Polk County v. Dodson*, 454 U.S. 312, 317-18 (1981). This defect in the complaint cannot be cured by amendment. This action is dismissed with prejudice as frivolous prior to service. This dismissal counts as a strike pursuant to 28 U.S.C. 1915 (e) (2) and (g).
- (3) In forma pauperis status is revoked for the purpose of appeal.

DATED this 23rd day of October, 2012.



BENJAMIN H. SETTLE
United States District Judge